

REPORT TO CITY COUNCIL

DATE: JANUARY 13, 2010

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER

BY: CHRISTY PINUELAS, DIRECTOR OF FINANCE

**SUBJECT: INTRODUCTION AND FIRST READING OF ORDINANCE NO. 10-372;
AN ORDINANCE AMENDING SECTION 6502 OF CHAPTER 5 OF
ARTICLE VI OF THE AGOURA HILLS MUNICIPAL CODE,
RELATING TO TRANSIENT OCCUPANCY TAXES**

In conjunction with the City Attorney, staff reviewed Section 6502 of Chapter 5 of Article VI of the Agoura Hills Municipal Code relating to transient occupancy tax. The recommended updates, which relate to the definition of transient and to the elimination of the obligatory agreement between a transient and the hotel, are attached in a redline version for your review.

The recommendations with the largest impact include defining an occupant as a transient for the first 30 days of their stay and eliminating the right to have an obligatory agreement between the hotel and a transient.

These changes help to clarify the City's intent for hotel guests to be transients for the first 30 days of their stay. The changes have been reviewed by staff, by the City's transient occupancy tax auditor, and prepared by the City Attorney.

RECOMMENDATION

It is recommended the City Council conduct a public hearing, introduce, read by title, only, and waive further reading of Ordinance No. 10-372; Amending Section 6502 of Chapter 5 of Article VI of the Agoura Hills Municipal Code relating to transient occupancy taxes.

Attachment: Redline Version of Ordinance No. 10-372

ORDINANCE NO. 10-372

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING SECTION 6502 OF CHAPTER 5 OF ARTICLE VI OF THE AGOURA HILLS MUNICIPAL CODE RELATING TO TRANSIENT OCCUPANCY TAX

The City Council of the City of Agoura Hills does hereby ordain as follows:

SECTION 1. The definition of “*Transient*” in Section 6501 of Chapter 5 of the Agoura Hills Municipal Code is hereby amended as follows:

“*Transient*. ‘Transient’ means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until ~~the the thirtieth (30th) consecutive day of such occupancy or right of occupancy has elapsed, without regard to the existence or non-existence of an agreement in writing between the operator and the occupant obliging the occupant to pay market rate for the occupancy for a period of at least thirty-one (31) consecutive days.~~ period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant obliging the occupant to pay market rate for the occupancy for a period of at least thirty one (31) consecutive days. ~~The Tax Administrator may develop and promulgate standard forms setting for the minimum substance of such agreements, and may require submission of such forms with the returns required by Section 6506.~~ In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this article may be considered.”

SECTION 2. Section 6502 of Chapter 5 of the Agoura Hills Municipal Code is hereby amended to read as follows:

“6502. Tax imposed.

(a) For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of twelve (12%) percent of the rent charged by the operator. Such tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator of the hotel at the same time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient’s ceasing to occupy space in the hotel. If, for any reason, the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax shall be paid directly to the tax administrator.

(b) In the event that an agreement exists between the hotel and ~~a transient any person~~ for occupancy, as defined in this article, for a period in excess of thirty (30) days, and in the event that such ~~transient person~~ allows occupancy by another person for thirty (30) days or fewer as subtenant, guest, licensee or permittee, the ~~transient person~~ who has made the agreement with the hotel as aforesaid shall be subject to and shall pay the tax provided for herein.”

SECTION 3. Severability. If any section, subsection, sentence, clause, portion, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, portions, or phrases of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, portion, or phrase without regard to whether any other section, subsection, sentence, clause, portion, or phrase of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. Effective Date. This ordinance shall go into effect on the 31st day after its passage.

SECTION 5. Certification. The City Clerk of the City of Agoura Hills shall certify to the passage and adoption of this ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

PASSED, APPROVED AND ADOPTED this 13th day of January, 2010, by the following vote to wit:

AYES: ()
NOES: ()
ABSENT: ()
ABSTAIN: ()

William D. Koehler, Mayor

ATTEST:

Kimberly M. Rodrigues, MMC, City Clerk

APPROVED AS TO FORM:

Craig A. Steele, City Attorney